

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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LAVONNE SMITH,

Pro Se Petitioner,

- against -

JOSEPH T. SMITH, Superintendent,
Shawangunk Correctional Facility,

Respondent.

MEMORANDUM & ORDER

10-CV-02268 (KAM) (LB)

MATSUMOTO, United States District Judge:

Petitioner Lavonne Smith ("petitioner") filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging the sentence imposed by the New York Supreme Court, Kings County, for a 1996 conviction of two counts of Robbery in the First Degree. (See generally ECF No. 1, Petition for Writ of Habeas Corpus.) Presently before the court is a Report and Recommendation issued by Magistrate Judge Bloom on November 21, 2011, recommending that this court deny and dismiss the petition. (ECF No. 8, Report and Recommendation.)

On November 21, 2011, notice of the Report and Recommendation was sent to *pro se* petitioner via first-class mail and to the respondent via the court's electronic filing system. As explicitly noted at the end of the Report and Recommendation, any written objections to the Report and Recommendation were to be filed within fourteen (14) days of service of the Report and Recommendation, or by December 8, 2011. (Report and

Recommendation at 11); see 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The statutory period for filing objections has expired, and no objections to Magistrate Judge Bloom's Report and Recommendation have been filed.

In reviewing a Report and Recommendation, the district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). Where no objection to the Report and Recommendation has been filed, the district court "need only satisfy itself that there is no clear error on the face of the record." *Urena v. New York*, 160 F. Supp. 2d 606, 609-10 (S.D.N.Y. 2001) (quoting *Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)).

Upon a review of the Report and Recommendation, and considering that the parties have failed to object to any of Magistrate Judge Bloom's thorough and well-reasoned recommendations, the court finds no clear error in Magistrate Judge Bloom's Report and Recommendation and hereby affirms and adopts the Report and Recommendation as the opinion of the court. In addition, as recommended in the Report and Recommendation, the court will not issue a certificate of appealability because petitioner has not made a substantial showing of the denial of any constitutional right, see 28 U.S.C. § 2253(c), and certifies,

pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this judgment denying the petition would not be taken in good faith.

Counsel for the respondent shall serve a copy of this Memorandum and Order upon *pro se* petitioner and file a declaration of service by February 17, 2012. The Clerk of the Court is respectfully directed to enter judgment denying and dismissing the petition in accordance with the Report and Recommendation and to close this case.

SO ORDERED.

Dated: February 15, 2012
Brooklyn, New York

/s/
Kiyo A. Matsumoto
United States District Judge